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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,354	10/28/1999	STEPHEN K. JOHNSON	10992660-1	7167

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EXAMINER

SHERRILL, JASON L

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 09/04/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/430,354	Applicant(s) JOHNSON ET AL.	
	Examiner Jason L Sherrill	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 8, 10, 11, 13, 15, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada (U.S. Patent No. 6,088,125).

For claims 1, 8 and 13, Okada discloses a system (Fig. 1 & 4) and method for electronically transmitting to an electronic mail server electronic data derived from optically scanning a document (25, Fig. 4, col. 7, lines 58-59), a system and method for recovering from a failure in the complete transmission of the electronic data to the e-mail server (14, Fig. 3), (Fig. 10, col. 9, lines 39-45), comprising means for and steps of:

Storing the electronic data to a storage device (5 Fig. 1, col. 7, lines 8-10 or 24, Fig. 4, col. 7, lines 57 - 58);

Detecting a failure in the complete transmission of electronic data to the e-mail server (St 53, Fig. 10, col. 9, lines 62 - 65)

Establishing communication with the e-mail server (St 56 – St 60, Fig. 10, col. 10, lines 9 - 24); and

Transmitting the electronic data from the storage device to the e-mail server (St. 56 – St 60, Fig. 10, col. 10, lines 9 – 24).

Okada fails to directly teach that the system 21 in Fig. 4 is a transmitter. However, Okada teaches that the requesting node as a transmitter can be 21 Fig. 4 (col. 8, lines 5 – 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to consider the system 21 Fig. 4 a transmitter because Okada teaches that the Netfax (Fig. 1 or 21, Fig. 4) can scan an original document (5, Fig. 1, 25, Fig. 4, col. 7, lines 59 – 60), stores it in a memory (24, Fig. 4, col. 7, lines 57 – 58) and transmits it through a LAN or Internet. It is therefore apparent that although Okada did not directly teach the system 21 in Fig. 4 as a transmitter it may function as one. The advantage of the system 21 in Fig. 4 being a transmitter would be to utilize its scanner capabilities (25, Fig. 4, col. 7, lines 58 – 59) and modulation/demodulation (28, Fig. 4, col. 7, lines 63 – 64) capabilities to transmit optically scanned images.

For claims 3, 10, and 15, Okada teaches a system and method for monitoring a communication status with the email server, wherein detecting the failure includes detecting a failure in communication with the email server (St 51 – St 55, Fig. 10, col. 9, lines 54 - 67)

For claims 4 and 16, Okada discloses a system and method of establishing communication with the server wherein the failure interrupts communication with the server (9, Fig. 1, Fig. 2, Fig. 9, col. 6, lines 18 – 20).

For claims 6, 11 and 19, Okada teaches confirming receipt of the electronic data by the e-mail server (Fig. 2, Fig. 10, col. 9, lines 56 – 60).

3. Claims 2, 5, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada (U.S. Patent No. 6,088,125) as applied to claims 1, 8, and 13 above, and further in view of Takaoka (U.S. Patent No. 5,103,318).

For claims 2, 9, and 14, Okada does not teach the recovery of a system for electronically transmitting electronic data derived from optically scanning a document from a failure due to the loss of electrical power.

Takaoka teaches a facsimile apparatus where a failure includes an interruption in electrical power (col. 7, lines 32 – 37), wherein storing the electronic data to a storage device includes storing the electronic data to a non-volatile storage device (col. 4, lines 8 – 10), and wherein detecting the failure in the complete transmission of electronic data includes examining the storage device for the electronic data after the interruption in electrical power (col. 7, line 43 – 48). It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the transmission failure in Okada to include an interruption of electrical power as taught in Takaoka. because both of them teach the recovery of fax data. The improvement on Okada by Takaoka would allow data protection in the case of failure due to loss of power and would provide a more stable system.

For claim 5, Okada fails to teach a system and method of before detecting the failure and after establishing communication with the email server, beginning transmission of the electronic data to the email server wherein the failure interrupts the transmission of electronic data to the email server from the storage device.

Takaoka teaches a system and method for determining, after transmission has begun, whether the procedure has been completed without error (St 101 – St 107, Fig. 2, col. 6, line 66 – col. 7, line 5). It would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of beginning transmission of the data before detecting the failure and after establishing communication as taught in Takaoka to the communication in

Okada due to the fact that both of them teach the error detection in a transmission communication of facsimile devices. This improvement on Okada by Takaoka allows a user to be notified of errors in the case where an interruption during transmission has taken place and provides a more efficient system for transmitting optically scanned data.

4. Claims 7, 12, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada as applied to claims 1, 8 and 13 above, and further in view of Nobuta (U.S. Patent No. 5,258,853).

For claims 7, 12, and 20, Okada does not teach a system and method of removing the electronic data from the storage device after the transmission of electronic data to the email server. Nobuta discloses a system and method of removing the electronic data from the storage device (40, Fig. 1, col. 5, lines 6 – 9) after transmission of the electronic data (S92 – S98, Fig. 8E, col. 58 – 63). It would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of removing the data from the storage after the transmission is complete as taught in Nobuta to the system in Okada since Okada teaches that the memory in the system is temporarily stores the data. That combination would prevent the system memory used for image data from getting completely exhausted.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Toyoda (U.S. Patent No. 6,094,277) teaches an internet facsimile apparatus and email communication method, which notifies the sender of data that has resulted in an error.

Art Unit: 2622

Hochman (U.S. Patent No. 5,838,685) discloses a method and apparatus for the transmission of data files over a network in connection with a store and forward system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason L Sherrill whose telephone number is 703-306-4053. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 703-305-4712. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5397 for regular communications and 703-306-5397 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

JLS
August 23, 2002

Maedeleine Nguyen
MADELEINE NGUYEN
PATENT EXAMINER
Au 2622